

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

WILLIAMS HAWKINS, on behalf of)	
himself and all others similarly situated,)	
)	
Plaintiff,)	Civil Action No.: 08-055 GMS
)	
v.)	
)	
DAMON'S INTERNATIONAL INC.)	
d/b/a DAMON'S GRILL; PRIS-MM, LLC)	JURY TRIAL DEMANDED
d/b/a DAMON'S GRILL WILMINGTON;)	
and ALLIANCE DEVELOPMENT)	
GROUP, LLC)	
)	
Defendants.)	

**ANSWER TO AMENDED COMPLAINT OF DEFENDANTS DAMON'S
INTERNATIONAL INC., d/b/a DAMON'S GRILL and ALLIANCE DEVELOPMENT
GROUP, LLC WITH AFFIRMATIVE DEFENSES AND CROSS-CLAIMS AGAINST
PRIS-MM, LLC d/b/a DAMON'S GRILL WILMINGTON**

1. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required. By way of further answer, the Fair and Accurate Credit Transactions Act ("FACTA") is a written document which speaks for itself and Plaintiff's characterization thereof is specifically denied.

2. FACTA is a written document which speaks for itself and Plaintiff's characterization thereof is specifically denied.

3. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required. By way of further answer, FACTA is a written document which speaks for itself and Plaintiff's characterization thereof is specifically denied.

4. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

5. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required. By way of further answer, FACTA is a written document which speaks for itself and Plaintiff's characterization thereof is specifically denied.

6. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required. By way of further answer, FACTA is a written document which speaks for itself and Plaintiff's characterization thereof is specifically denied.

7. Admitted.

8. Admitted.

9. Admitted upon information and belief.

10. Admitted that Damon's International Inc. is an Ohio corporation with headquarters at 4645 executive Drive, Columbus, Ohio, 43220. It is specifically denied that Damon's International Inc. operates restaurants in Delaware.

11. Admitted that Pris-MM, LLC operated the Damon's located at 4000 Concord Pike, Wilmington, DE 19803. It is specifically denied that Damon's Wilmington operates under the "corporate umbrella" of Damon's Grill. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the remainder of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial.

12. Admitted that Alliance Development Group, LLC is a Delaware entity, which has headquarters at 301 South Tryon Street, Suite 1500, Charlotte, NC 28282. Denied as to the remaining allegations.

13. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

14. FACTA is a written document which speaks for itself and Plaintiff's characterization thereof is specifically denied.

15. FACTA is a written document which speaks for itself and Plaintiff's characterization thereof is specifically denied.

16. FACTA is a written document which speaks for itself and Plaintiff's characterization thereof is specifically denied.

17. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial.

18. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial.

19. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial. By way of further answer, Visa's manual titled "Rules for Visa Merchants: Card Acceptance and Chargeback Management Guidelines" is a written document which speaks for itself and Plaintiff's characterization thereof is specifically denied.

20. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial.

21. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained

herein and same are deemed denied with strict proof thereof demanded at the time of trial.

22. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial.

23. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

24. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

25. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial.

26. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

27. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial.

28. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial.

29. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial. By way of further answer, the allegations contained herein are denied as conclusions of law to which

no responsive pleadings are required.

30. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

31. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial.

32. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial.

33. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

34. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial. By way of further answer, the allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

35. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial.

36. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial.

37. Denied. The allegations contained herein are denied as conclusions of law to

which no responsive pleadings are required.

38. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial. By way of further answer, the allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

39. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

40. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial. By way of further answer, the allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

41. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

42. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

43. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

44. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

45. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained

herein and same are deemed denied with strict proof thereof demanded at the time of trial.

46. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

COUNT I

47. Answering Defendants incorporates paragraphs 1- 46 as is fully set from herein.

48. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

49. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

50. Denied. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained herein and same are deemed denied with strict proof thereof demanded at the time of trial.

51. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

52. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

53. Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

COUNT II

54. Answering Defendants incorporates paragraphs 1- 53 as is fully set from herein.

55. The allegations contained herein are directed toward a party other than the Answering Defendant and no response is required.

56. The allegations contained herein are directed toward a party other than the

Answering Defendant and no response is required.

57. The allegations contained herein are directed toward a party other than the Answering Defendant and no response is required.

58. The allegations contained herein are directed toward a party other than the Answering Defendant and no response is required.

59. The allegations contained herein are directed toward a party other than the Answering Defendant and no response is required.

60. The allegations contained herein are directed toward a party other than the Answering Defendant and no response is required.

PRAYER FOR RELIEF

61.(a-f) Denied. The allegations contained herein are denied as conclusions of law to which no responsive pleadings are required.

WHEREFORE, Answering Defendants Damon's International, Inc. and Alliance Development Group, LLC request that judgment be entered in its favor and against all other parties.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's causes of action are barred in whole or in part by the applicable statute of limitations.

THIRD AFFIRMATIVE DEFENSE

Plaintiff has failed to join indispensable parties.

FOURTH AFFIRMATIVE DEFENSE

If Plaintiff(s) sustained the injuries as alleged in their Complaint, which is herein strictly denied, then they were caused by the acts or omissions of entities/individuals over which/whom Answering Defendant had no control nor legal duty to control.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff has failed to mitigate their damages.

SIXTH AFFIRMATIVE DEFENSE

All allegations pertaining to employment, workmen, servant, agency, supervision and/or control are specifically denied. _____

SEVENTH AFFIRMATIVE DEFENSE

Lack of personal jurisdiction over Damon's International, Inc.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiff's claims are precluded in whole or in part by the provisions of 15 U.S.C. § 1681.

NINTH AFFIRMATIVE DEFENSE

Improper splitting cause of action.

TENTH AFFIRMATIVE DEFENSE

Plaintiff's causes of action are barred in whole or in part by the doctrine of res judicata.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's causes of action are not proper for class certification.

WHEREFORE, Answering Defendant prays the Court find in their favor, and against Plaintiffs, together with attorney fees, costs and such other relief as the Court may deem just.

CROSS CLAIM FOR CONTRIBUTION AND/OR INDEMNIFICATION
AGAINST CO-DEFENDANT PRIS-MM, LLC d/b/a DAMON'S GRILL WILMINGTON

The Answering Defendants deny that they are liable to the Plaintiff in any respect. However, in the event that the answering Defendant is held liable to the Plaintiff, then it cross-claims against the Co-defendant, Pris-MM, LLC, on the grounds that the conduct of Co-defendant, Pris-MM, LLC, was the primary cause of the damage sustained by the Plaintiff and that the answering Defendant, if liable at all, is only secondarily liable. The Answering Defendants, Defendants Damon's International, Inc. and Alliance Development Group, LLC, therefore is entitled to indemnification from the Co-defendant, Pris-MM, LLC.

WHEREFORE Answering Defendant demands the cause of action against it be dismissed with prejudice.

REGER RIZZO & DARNALL LLP

/s/ Louis J. Rizzo, Jr., Esquire

LOUIS J. RIZZO, JR., ESQUIRE (#3374)

1001 Jefferson Street, Suite 202

Wilmington, DE 19801

(302) 652-3611

Attorney for Defendants Damon's International,
Inc. and Alliance Development Group, LLC

Dated: April 25, 2008

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

WILLIAMS HAWKINS, on behalf of)	
himself and all others similarly situated,)	
)	
Plaintiff,)	Civil Action No.: 08-055 GMS
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v.)	
)	
DAMON'S INTERNATIONAL INC.)	
d/b/a DAMON'S GRILL; PRIS-MM, LLC)	JURY TRIAL DEMANDED
d/b/a DAMON'S GRILL WILMINGTON;)	
and ALLIANCE DEVELOPMENT)	
GROUP, LLC)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify on this 25th day of April, 2008 that a true and correct copy of the Answer to Amended Complaint of Defendants Damon's International Inc., d/b/a Damon's Grill and Alliance Development Group, LLC with Affirmative Defenses and Cross-Claims Against Pris-MM, LLC d/b/a Damon's Grill Wilmington has been served electronically and by first class mail, postage prepaid, upon the following:

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Dated: April 25, 2008

Attorney for Defendants Damon's International, Inc.
and Alliance Development Group, LLC